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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,233	11/07/2001	Yu-Zung Chiou	TS01-102	2907
28112	7590	04/21/2004	EXAMINER	
GEORGE O. SAILE & ASSOCIATES 28 DAVIS AVENUE POUGHKEEPSIE, NY 12603				LOUIE, WAI SING
ART UNIT		PAPER NUMBER		
		2814		

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/040,233	CHIOU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Wai-Sing Louie	2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 13 February 2004.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-16 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-16 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4, 8-10, 12, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Maloney (US 6,323,985).

With regard to claims 1 and 9, Maloney discloses an integrated circuit optical modulator (col. 2, line 66 to col. 10, line 36 and fig. 4-5) comprising:

- A p-type region 300 extending to the surface of a semiconductor substrate (col. 6, line 23 and fig. 4);
- A multiplicity of parallel finger-like n-well 214 (fig. 5) formed in the p-type region 300 that are connected to a conductive region 506 at one end (col. 9, lines 10-26 and fig. 7).

With regard to claims 2 and 10 and in accordance to claims 1 and 9 above, Maloney discloses the p-type region is a p-substrate 300 (col. 6, line 23).

With regard to claims 4 and 12 and in accordance to claims 1 and 9 above, Maloney disclose the finger-liken-well are formed by n-type dopant (fig. 4) and inherently, the n-type dopant could be phosphorous ion implantation.

With regard to claims 8 and 16 and in according to claims 1 and 9 above, Maloney discloses the modulation structures form an array of parallel strips of gate polysilicon and source/drain regions (col. 6, lines 46-51 and fig. 5). Inherently, the numbers of fingers in the parallel finger-like n-well is greater than 3 (fig. 4-5).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 5-7, 11, and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maloney (US 6,323,985) in view of Merrill et al. (US 6,150,683).

With regard to claims 3 and 11, Maloney discloses an n-well in the p-type region, but does not disclose the p-type region is a p-well. However, one with ordinary skill in the art would change the conductivity to meet the function of the MOSFET, i.e., p-MOS and n-MOS as disclosed in Merrill et al. (fig. 6). Therefore, it would have been obvious for the one with ordinary skill in the art to provide a p-well in Maloney's device.

With regard to claims 5-7 and 13-15 and in according to claims 1 and 9 above, Maloney discloses the doping depth, but do not disclose the width separating the parallel finger-like n-well is between about 0.5 and 2 microns. However, the width of claims 5-7 and 13-15 are considered to involve routine optimization, which has been held to be within the level of ordinary skill in the

art. As noted in *In re Aller*, the selection of reaction parameters such as temperature, concentration, width, and thickness etc. would have been obvious:

“Normally, it is to be expected that a change in temperature, or in thickness, or in time, would be an unpatentable modification. Under some circumstances, however, changes such as these may impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art...such ranges are termed “critical ranges and the applicant has the burden of proving such criticality.... More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.”

*In re Aller* 105 USPQ233, 255 (CCPA 1955). See also *In re Waite* 77 USPQ 586 (CCPA 1948); *In re Scherl* 70 USPQ 204 (CCPA 1946); *In re Irmscher* 66 USPQ 314 (CCPA 1945); *In re Norman* 66 USPQ 308 (CCPA 1945); *In re Swenson* 56 USPQ 372 (CCPA 1942); *In re Sola* 25 USPQ 433 (CCPA 1935); *In re Dreyfus* 24 USPQ 52 (CCPA 1934).

Therefore, one of ordinary skill in the requisite art at the time the invention was made would have used any thickness suitable to the method of the process in order to optimize the design.

### ***Response to Arguments***

Applicant's arguments filed 2/13/04 have been fully considered:

- Applicant argues that n-type regions 214 of Maloney (US 6,323,985) do not connect to 506 region (page 2). However, Maloney discloses a p-well 300 having a plurality of parallel finger-like n-well formed in the p-region 300 (see fig. 4, which is a cross section of the modulator). Figure 5 shows the plan view of the

device, which shows the finger-like n-well, but does not show the connection to a common conductive region at one end. Figure 7a shows a connection 506, which connects the plurality of finger-like n-wells at one end. Therefore, Maloney meets the limitations in claims 1 and 9.

***Conclusion***

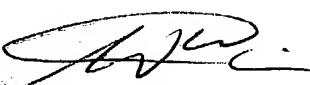
**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

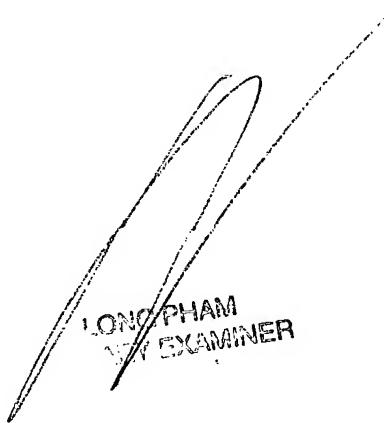
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wai-Sing Louie whose telephone number is (571) 272-1709. The examiner can normally be reached on 7:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael Fahmy can be reached on (571) 272-1705. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wsl   
April 15, 2004.



LONG PHAM  
EXAMINER